

HOUSE BILL NO. 52

INTRODUCED BY D. GALLIK

BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING REFERENCES RELATING TO THE MILITARY; ADOPTING THE MOST RECENT VERSION OF FEDERAL LAWS, REGULATIONS, FORMS, PRECEDENTS, AND USAGES, INCLUDING THE FEDERAL UNIFORM CODE OF MILITARY JUSTICE, FOR USE BY STATE MILITARY FORCES; DELETING A REFERENCE TO FEDERAL STATUTE THAT HAS BEEN REPEALED THAT RELATED TO VETERANS' BENEFITS; AND AMENDING SECTIONS 10-1-104 AND 25-13-608, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-1-104, MCA, is amended to read:

"10-1-104. Federal regulations to govern. (1) Federal laws and regulations, forms, precedents, and usages relating to and governing the armed forces of the United States and the national guard, as in effect on October 1, ~~1999~~ 2001, insofar as they are applicable and not inconsistent with the constitution of this state, apply to and govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code.

(2) The Uniform Code of Military Justice, as in effect on October 1, ~~1999~~ 2001, including the regulations, manuals, forms, precedents and usages implementing, interpreting, and complementing the code, is adopted for use by the national guard of this state and applies, insofar as the code is not otherwise inconsistent with the constitution of this state and except as otherwise provided by this title or by rule adopted by the department, to the greatest extent practicable to govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code when the members are serving other than in a federal capacity under Title 10 of the United States Code."

Section 2. Section 25-13-608, MCA, is amended to read:

"25-13-608. Property exempt without limitation -- exceptions. (1) A judgment debtor is entitled to exemption from execution of the following:

(a) professionally prescribed health aids for the judgment debtor or a dependent of the judgment debtor;

(b) benefits the judgment debtor has received or is entitled to receive under federal social security or local public assistance legislation, except as provided in subsection (2);

(c) veterans' benefits, except as provided in subsection (2);

(d) disability or illness benefits, except as provided in subsection (2);

(e) except as provided in subsection (2), individual retirement accounts, as defined in 26 U.S.C. 408(a), to the extent of deductible contributions made before the suit resulting in judgment was filed and the earnings on those contributions, and Roth individual retirement accounts, as defined in 26 U.S.C. 408A, to the extent of qualified contributions made before the suit resulting in judgment was filed and the earnings on those contributions;

(f) benefits paid or payable for medical, surgical, or hospital care to the extent they are used or will be used to pay for the care;

(g) maintenance and child support; and

(h) a burial plot for the judgment debtor and the debtor's family.

(2) Veterans' and social security legislation benefits based upon remuneration for employment, ~~as defined in 42 U.S.C. 662(f)~~, disability benefits, and assets of individual retirement accounts are not exempt from execution if the debt for which execution is levied is for:

(a) child support; or

(b) maintenance to be paid to a spouse or former spouse if the spouse or former spouse is the custodial parent of a child for whom child support is owed or owing and the judgment debtor is the parent of the child."

- END -